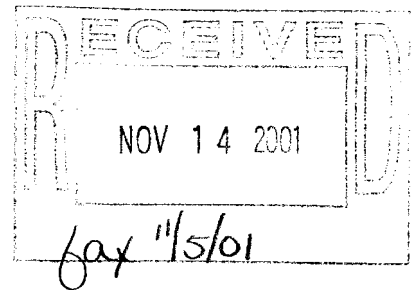




**VANCOUVER AQUARIUM**  
MARINE SCIENCE CENTRE



November 1, 2001

National Marine Fisheries Service  
Office of Protected Resources  
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RE: Docket No. 001031304-0304-01

Dear Madam/Sir:

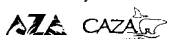
On behalf of the Vancouver Aquarium Marine Science Centre I am submitting comments on the National Marine Fisheries Service's (NMFS) proposed rule published in the Federal Register July 3, 2001. Specifically the proposal to implement the amendments to the Marine Mammal Protection Act (MMPA), enacted April 30, 1994, affecting marine mammal public display requirements relating to permits to capture or import, transport or transfer, and export of marine mammals

While the Vancouver Aquarium Marine Science Centre is located in Canada, we feel compelled to comment on the proposed rules because we work closely with a number of US institutions to manage very small numbers of individual marine mammals. For some species, there is less than 50 total animals in captive care worldwide. The restrictions the proposed rules will place on international cooperation will harm these populations and animals, not protect them.

The Vancouver Aquarium Marine Science Centre also wholly endorses the comments made by the Alliance of Marine Mammal Parks and Aquariums (AMMPA) and supports their strong objections to the proposed rules. As the AMMPA has noted, the proposed changes are inconsistent with, and contradict, the 1994 amendments to the MMPA.

In particular the issue of comity is highly problematic for foreign institutions such as the Vancouver Aquarium. We consider comity to be an inappropriate and unnecessary attempt at international regulation despite the fact that NMFS does not have jurisdictional rights over foreign sovereignties. At this point the Canadian Government is not in a position to be able to issue a letter of comity. The Vancouver Aquarium is therefore unable to import any marine mammals from U.S. waters or public display facilities. This despite the Vancouver Aquarium Marine Science Centre being the first

Accredited by



The Vancouver Aquarium Marine Science Centre, Canada's Pacific National Aquarium, is a self-supporting, non-profit association dedicated to effecting the conservation of aquatic life through display and interpretation, education, research and direct action.

fully accredited aquarium of the American Zoo and Aquarium Association (AZA) and an institution that has been in good standing for the last 22 years and as such clearly surpassing the minimal requirements for export under the MMPA.

Under the MMPA for public display a marine mammal can be exported if the receiving facility meets “standards that are comparable to the requirements that a person must meet to receive a permit”. There are three such standards: the facility must (1) offer a program for education or conservation based on professionally recognized standards of the public display community; (2) have an APHIS registration or license; and (3) be open to the public on a regularly scheduled basis with access not limited except by an admission fee.

The Aquarium is ~~not~~ suggesting that export should be limited to **AZA** accredited facilities only as this would place an unacceptable burden to overseas facilities many of whom meet professional standards established through their own professional bodies.

Comity is also a major impediment to international collaborative management of captive marine mammal populations, for example through regional collection plans (RCP). Captive populations absolutely require appropriate international management to ensure their vigor and sustainability, at the current time even if all professional facilities world-wide work co-operatively there is a strong argument to support occasionally going back to the wild for more founders. Comity promotes U.S. isolationism and in so doing increases pressure on wild stocks of marine mammals around the world. As NMFS is aware comity for many countries is simply not practicable it therefore removes marine mammals from general circulation i.e. direct exchange is not possible and one-way loans (i.e. into the U.S.) become less palatable for many facilities. The only alternative for many international facilities to maintain their isolated populations is to turn once again to wild stocks for the proper genetic management of their animals.


Some few facilities have been able to accommodate comity. However as AMMPA reports. “This ineffectual approach has caused U.S. and foreign public display facilities to incur enormous transactional costs to find some way to satisfy NMFS and the foreign government.” Each case has been individually negotiated, with each situation resulting in different factors taken into account in the letters of Comity agreements. This issue then becomes one of politics and strategy, rather than of policy and procedure.

The Vancouver Aquarium Marine Science Centre strongly recommends that NMFS rethink its position on comity and consider the benefits to global marine mammal management and to protecting marine mammal stocks worldwide by striking comity from the regulations.

The Alliance of Marine Mammal Parks and Aquariums will be submitting more detailed comments on comity and the other Proposed Regulations. We would like to re-iterate our strong support of the Alliance comments.

We hope these comments will be helpful in promulgating a rule that more closely reflects the 1994 amendments to the MMPA.

Sincerely,

 John Nightingale, Ph.D.  
President